UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,226	02/28/2002	Dov Moran	M01/23	5080

	7590	02/13/2004

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EXAMINER
PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
2182	8

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)
Office Action Summary	10/084,226	MORAN, DOV
	Examiner	Art Unit
	Tammara R Peyton	2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _08 December 2003_ .

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _3-18 and 26-36_ is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _3-18 and 26-36_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____ .

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

   a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3-18 and 26-36 are rejected under 35 U.S.C. 103(a) as being

unpatentable over *Sunshine*, (US 6,606,566).

As per claims 14-16, and 34 *Sunshine* teaches a portable device (10, Figs.1-3)

for device-to-device data transfer (col. 7, lines 65-67), comprising:

a non-volatile memory (data storage area, 32, Fig. 2) for storing the data,

a device interface (communication interface, 24, Figs. 1-3) for enabling the data

to be transferred from the portable device and another portable device (10, Fig.3);

wherein operation of both the portable device and said other portable device,

with respect to the data, are restricted to data storage and transfer. (Abstract, col. 4,

lines 17-col. 10, lines 64 and col. 14, lines 44-59)

Sunshine teaches portable field devices that detect, capture, and store analyte

data in a specific network data format. (col. 8, lines 11-18) *Sunshine* also allows the

sharing of the captured data between other portable field devices. (col. 9,lines 43-52)

However, *Sunshine* does not expressly teaches wherein the data storage area is non-volatile memory; nonetheless, memory components consisting of flash memory, RAM, SD-RAM, or D-RAM are well known in the art, thereby making use of one or all of these memory components obvious to one of ordinary skill.

As per claim 5, in one embodiment of *Sunshine's* portable field device *Sunshine* teaches wherein the portable device does not feature a user interface for communicating directly with a user.

As per claims 9-13, *Sunshine* teaches formatting the captured data according to a specific type. Further, *Sunshine* teaches wherein said device interface is connectable to a communication port (via docking device, 30, Fig.2) of a computer, and said type is marking upon transfer of data from said computer to said non-volatile memory. (col. 10, lines 37-42)

As per claims 17, 33, and 35, *Sunshine* teaches a portable device for data storage, comprising:

    a non-volatile memory (data storage area, 32, Fig. 2) for storing the data;

    a limited instruction set (encodes or decodes data via data codec, 22, Figs.1-3, col. 4, lines 47-50) for controlling transfer of the data for at least one of to or from said non-volatile memory;

a logic (data codec, 22) for executing at least one instruction from said limited instruction set; and

a device interface (communication interface, 24, Figs. 1-3) for enabling the data to be transferred for at least one of the portable device from another portable device or from the portable device to said other portable device; wherein both the portable device and said other portable device lack an operating system.

Sunshine teaches portable field devices that detect, capture, and store analyte data in a specific network data format. *Sunshine* also teaches wherein the portable field device does not include a processor. One of ordinary skill would readily recognize that the portable field devices lack an operating system that could perform other instructional functions besides detecting, capturing, storing, and transferring data.

As per claim 18, *Sunshine* teaches a user interface for receiving at least one command from the user. (col. 10, lines 37-39)

As per claims 26 and 36, *Sunshine* teaches wherein a portable device for data storage for a user, comprising:

a non-volatile memory (data storage area, 32, Fig. 2) for storing the data;

a memory (data storage area, 32, Fig. 2) for storing a software application for controlling data transfer with said non-volatile memory;

a logic (data codec, 22) for executing said software application; and

a device interface for enabling the data to be transferred from the portable device

directly to another portable device, wherein communication between said portable

devices only occurs through respective device interfaces, and wherein neither the

device nor said other portable device is capable of receiving an additional software

application.

It is obvious to one of ordinary skill at the time the invention was made that

Sunshine teaches memory code of a software application for controlling data transfer

via the device communication interface. It would have been obvious to one of ordinary

skill at the time the invention was made that the data storage of the portable devices

includes instruction that would enable the portable devices to perform the data transfer

to and from another portable devices. Further, nowhere in *Sunshine* does it teach that

the portable devices are capable of receiving an additional software application that will

be executed by the portable devices.

As per claim 3, 4, 27-30, *Sunshine* teaches incorporating logic for implementing

at least one instruction stored in a data storage area, but does not expressly teach an

additional memory component for storing said at least one instruction. However, it would

have been obvious to one of ordinary skill that the data store by *Sunshine* would include

an additional component, one part of the data store would be for storing the permanent

instructions to be implemented by the logic to perform the data transfer mechanisms

and another part of the data store would be used to receive and hold data that will be

eventually transferred to another portable device. *Sunshine* would have been motivated

to include in the data store additional memory space that would include other ,

instructions in order to expand the flexibility of the portable devices. Further, memory

components consisting of a flash memory, RAM, SD-RAM, or D-RAM are well known in

the art, thereby making use of one or all of these memory components obvious to one of

ordinary skill.

As per claim 6, *Sunshine* obviously teaches further comprising a signaling device

for transmitting a signal to another portable device, said signal requesting transfer of

data.

As per claims 7 and 8, *Sunshine* teaches allowing communications between a

portable device and another portable device (col. 9, lines 43-47), but does not expressly

teach automatically initiated upon detection of said another portable device. However,

devices sharing data automatically upon detection is well known in the art. It would have

been obvious to one of ordinary skill at the time the invention was made that *Sunshine*

would have been motivated to implement such a feature because it would enhance the

communication flexibility of the portable devices.

As per claim 31, in one embodiment of *Sunshine's* portable field device *Sunshine*

teaches wherein the portable device does not feature a user interface for

communicating directly with a user.

As per claim 32, in one embodiment *Sunshine's* teaches wherein communication between the portable field devices only occurs through said device interfaces.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (703) 306-5508. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin, can be reached on (703) 308-3301. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks
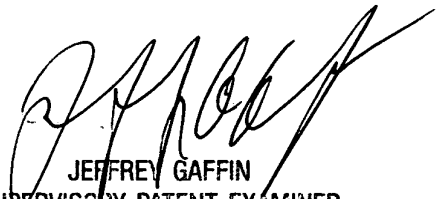
Washington, D.C. 20231.

Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

(703) 872-9306

Hand-delivered responses should be brought to:

Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

Tammara Peyton

February 11, 2004

JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100